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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/708,266 | 02/20/2004 | Mark E. Kirby | 1051.10 | 2265 |
| 21901 | 7590 | 11/02/2006 | EXAMINER | |
| SMITH HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677 | | | SPISICH, MARK | |
| | | | ART UNIT | PAPER NUMBER |

1744

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,266

Applicant(s)

KIRBY, MARK E.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (USP Des446895) in view of Galvan Garza (USP 5,836,034). The patent to Denney discloses a (sponge) mop head having a generally parallelepiped structure and further wherein there are a plurality of longitudinally extending projections formed in the bottom wall thereof (see the figures). The patent to Denney discloses the invention substantially as claimed with the exception of the projecting portions being in the form of convexities. The recitation of the intended use of the sponge fails to define over the structure of the prior art. The patent to Galvan Garza discloses a sponge (4) with a plurality of projecting ridges (6) with rounded tips (5) (column 2, line 1) (eg, figure 5). It would have been obvious to one of ordinary skill to have modified the projecting portions of Denney as such so that the sponge would more smoothly move across a floor surface. The reference in claim 1 to the depth of the concavity is noted; however, references to the work or article to be cleaned do not form part of the claimed device. Any sponge disclosed as a mop head would be "adapted" to be attached to the end of a handle.

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3. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Boggs (USP 5,640,737). The prior art discloses the invention substantially as claimed with the exception of the particular sponge material. The patent to Boggs discloses a cleaning sponge of reticulated polyester with a density of .7 to 6 pounds per cubic foot (column 2, lines 33-41). It would have been obvious to one of ordinary skill to have modified the sponge of Denney as such as it is shown to be an art-recognized equivalent foam material.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (USP D446,616) in view of Galvan Garza (USP 5,836,034). The patent to Denney discloses a sponge with a plurality of curvilinear projection on a bottom wall thereof and fails only to disclose the projection having a convexity. It would have been obvious to one of ordinary skill to have modified the device of Denney in view of Galvan Garza for the same reason set forth above.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 7 above, and further in view of Boggs (USP 5,640,737). The use of the particular foam material of claims 8 and 9 is taught by Boggs and it would have been obvious to have modified the device of Denney for the reason set forth above.

Allowable Subject Matter

6. Claim 10 is allowed.

Response to Arguments

7. Applicant's arguments filed 24 August 2006 have been fully considered but they are not persuasive. With respect to the patents to Denney (USP D446,895 and USP D446,616), applicant's statement regarding the definition of "convexity" and the lack thereof in either of the patents to Denney is noted; however, it was never asserted that either '895 or '616 had the convexities. '895 and '616 (the base references) were applied as they taught a generally parallelepiped sponge with a plurality of longitudinally extending projections (either straight in '895 or curvilinear in '616). The patent to Galvan Garza (USP 5,836,034) is relied on for the teaching the rounded (convex) protrusions on a sponge for cleaning various surfaces, including tile (which would obviously be a primary use of a sponge mop head as in '895 or '616). Applicant's comments regarding the other aspects of Galvan Garza are noted; however, this patent (the secondary reference) is relied on merely to teach the rounded shape of the protrusions, which are present in the primary reference(s).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich
Primary Examiner
Art Unit 1744

MS